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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF WASHINGTON (SPOKANE)**

9 LARISSA CLARK, an individual,

10 Plaintiff,

11 v.

12 WILDFIRE CANNABIS COMPANY, LLC a
13 Washington Company; ROBERT FOSTER,
14 and the community property thereof

15 Defendants.

Case No. _____

16 **COMPLAINT FOR DAMAGES**

17 **AND JURY DEMAND**

18 Plaintiff Larissa Clark (“Clark” or “Plaintiff”), by and through her undersigned attorneys
19 of record, Gregory M. Skidmore and Damien N Villarreal of Skidmore | Fomina, PLLC, alleges
20 as follows:

21 **I. PARTIES**

22 1.1 Plaintiff Larissa Clark is a citizen of the United States and an individual residing in
23 Stevens County, Washington.

24 1.2 Defendant Wildfire Cannabis Company, LLC is incorporated under the laws of the
25 State of Washington and has its principal offices in Stevens County, Washington, maintains its
26 registered agent in Stevens County, Washington, and transacts business in multiple counties
including Stevens County, Washington.

1 1.3 Robert Foster is a citizen of the United States and an individual residing in Stevens
2 County, Washington.

3 1.4 During all times relevant, Wildfire and Robert FASTER were Plaintiff's employer, or
4 acting directly on behalf of an employer, pursuant to the Washington Law Against Discrimination,
5 RCW 49.60.030(11).

6 **II. ADMINISTRATIVE EXHAUSTION**

7 2.1 Plaintiff filed a WAHRC and EEOC charge against Wildfire Cannabis (#38G-
8 2021-00162) for religious discrimination, and the EEOC issued a right to sue letter on April 5,
9 2021.

10 **III. JURISDICTION AND VENUE**

11 3.1 This Court has jurisdiction over the parties because all parties are believed to have
12 resided and/or transacted business in Stevens County, Washington.

13 3.2 This Court has jurisdiction over the subject matter of this lawsuit pursuant to 28
14 USC § 1331.

15 3.3 Venue is proper because Defendants reside within Stevens County by transacting
16 business and selling to customers in Stevens County, Washington which is within the district of
17 this court.

18 **IV. FACTUAL ALLEGATIONS**

19 4.1 Wildfire Cannabis is in the business of growing and selling marijuana.

20 4.2 Ms. Clark is a devout Messianic Jew. As part of her religious tradition, Ms. Clark
21 observes the biblical Sabbath from sundown on Friday evening until sundown on Saturday.

22 4.3 At the time of her interview to become a processor at Wildfire Cannabis in the
23 summer of 2020, Ms. Clark indicated she was available to work from 8 a.m. to 4:30 p.m. and
24 accepted the position.

25 4.4 Ms. Clark was hired at Wildfire Cannabis on or about July 8, 2020.
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1 4.5 Ms. Clark's duties included trimming flower, making joints, weeding outdoor
2 garden beds, harvesting, hanging plants to dry, and taking down dry rooms. Ms. Clark was to be
3 paid \$14.50 hour and worked full time.

4 4.6 When Ms. Clark exceeded the required hourly trim rate (.34 pounds per hour), she
5 was also to be given a bonus of \$6.66 per hour for a total of \$21.16 per hour when she trimmed at
6 the hourly rate of .47 pounds per hour.

7 4.7 In or about October 2020, Ms. Clark's husband brought it to her attention that with
8 her shift ending at 4:30 p.m. and sunset becoming much earlier in the winter months, she would
9 need to consider a change in schedule. Ms. Clark researched sunset times and determined there
10 would be a conflict. Ms. Clark then immediately brought it to Vicki Foster's attention. Ms. Foster
11 was fulfilling the role as Human Resources and payroll at the time.

12 4.8 On or about October 8, 2020, Ms. Clark asked her immediate supervisor, Joseph
13 Mobley, while on the processing floor for a copy of the Employee Handbook and was informed
14 that the Employee Handbook was the laminated sheets on the back of the main processing room's
15 front door. There was no information on religious accommodations. Ms. Clark also looked for
16 forms or paperwork on how to request an accommodation but found none.

17 4.9 Ms. Clark asked Ms. Foster on her way out the door for information on requesting
18 religious accommodations and offered to send her a letter explaining the request. Ms. Foster
19 indicated she would like to see it but did not provide a way for Ms. Clark to get her that
20 information.

21 4.10 Ms. Clark also asked her supervisor Joseph Mobley for Ms. Foster's email address
22 so she could send a formal request. She received no response.

23 4.11 On or about October 12, 2020 in the morning, Ms. Clark got called in to the owner,
24 Robert Foster's office. Mr. Foster proceeded to tell Ms. Clark what the biblical Sabbath actually
25 was and what she can and cannot do on the Sabbath. Ms. Clark was angry but calmly explained
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1 the basis for her religious beliefs as outlined in Leviticus 23. Mr. Foster then informed her that
2 Washington is an at-will state and that he could terminate her “if I don’t like the way you look
3 today.” Ms. Clark believed he was specifically referring to the Tichel she was wearing. Mr. Foster
4 reemphasized that she was required to work until 4:30 p.m. on Fridays without exception, that Ms.
5 Clark would not be required to work on Saturdays, and that he had no obligation to accommodate
6 her religious beliefs.

7 4.12 The following day, Ms. Foster informed Ms. Clark that she should not have talked
8 to Mr. Foster about her request for religious accommodation and accused her of not informing
9 them of her need for accommodation upon hire. Despite multiple meetings with both Mr. and Ms.
10 Foster, no resolution was found on the issue of her working into the Sabbath when the days were
11 shorter.

12 4.13 On or about November 3, 2020 and with time running out due to daylight savings
13 time on November 1, 2020, Ms. Clark again requested HR’s email and received it from her
14 supervisor. That evening Ms. Clark sent the formal request for accommodation asking not to work
15 on the Sabbath. She was merely seeking a slight change in schedule from November 6, 2020 until
16 January 15, 2021.

17 4.14 Ms. Clark did not receive a response to her request and even though it went against
18 her religious beliefs and caused her a lot of stress and heartache, she went ahead and worked until
19 4:30 p.m. - past sunset on November 6th. Agonizing over what to do next, Ms. Clark and her
20 husband decided it was more important to adhere to their religious beliefs and decided she would
21 quit after work on Thursday, November 12, 2020 before the next Sabbath.

22 4.15 On or about November 10, 2020, Ms. Clark learned that another employee had their
23 request for change of schedule granted so they did not have to drive home in the dark.

24 4.16 Ms. Clark also learned that her family had been directly exposed to someone with
25 COVID-19. Based on Ms. Clark’s research of the required state protocols, Ms. Clark was required
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1 to quarantine for 14 days due to COVID-19 exposure. Ms. Clark informed Mr. Foster about this
2 and yet Mr. Foster indicated that she had to come in the next day.

3 4.17 In lieu of waiting a couple more days, Ms. Clark resigned that same evening. She
4 sent an email indicating, “that due to direct exposure to covid-19 my family will be in quarantine
5 for the next 14 days” and that “the reason I am resigning is due to religious discrimination.”

6 **V. CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**
8 **Religious Discrimination, RCW 49.60 et seq.**

9 5.1 Plaintiff re-alleges and incorporates herein the preceding paragraphs of this
10 Complaint.

11 5.2 Plaintiff is a Messianic Jew and is a member of a protected class.

12 5.3 Defendants treated Plaintiff differently than members outside of her protected class.

13 5.4 Plaintiff sought a work accommodation for her religious beliefs.

14 5.5 Defendants’ failure to accommodate her religious beliefs was a substantial factor
15 in Plaintiff’s decision to resign.
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17 5.6 Defendant’s failure to accommodate her religious beliefs was the proximate cause
18 of Plaintiff’s loss of income and other damages to be proven at trial.

19 **SECOND CAUSE OF ACTION**
20 **Failure to Accommodate**
21 **Washington Law Against Discrimination, RCW 49.60 et seq.**
22 **Title VII, 42 U.S.C. § 2000e et seq.**

23 5.7 Plaintiff re-alleges and incorporates herein the preceding paragraphs of this
24 Complaint.

25 5.8 Plaintiff is a Messianic Jew and is a member of a protected class and her religious
26 practices and observances conflicted with employment duties.

1 5.9 Plaintiff informed Defendants of the belief, practice, or conflict and Defendants
2 were therefore on notice when Plaintiff requested accommodations.

3 5.10 Defendants failed to accommodate Plaintiff's religious belief, observances, and
4 practices despite being on notice.

5 5.11 Defendants' accommodation of Plaintiff's religious belief, observances, and
6 practices would not have caused an undue hardship.

7 5.12 As a result of Defendant's failure to accommodate, Plaintiff has been damaged in
8 an amount to be proven at trial.

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10 **THIRD CAUSE OF ACTION**

11 **Retaliation**

12 **Washington Law Against Discrimination, RCW 49.60.210(1)**

13 **Title VII, 42 U.S.C. § 2000e et seq.**

14 5.13 Plaintiff re-alleges and incorporates herein the preceding paragraphs of this
15 Complaint.

16 5.14 Plaintiff complained about Defendant's discriminatory and retaliatory treatment
17 based on religion and requested religious accommodations.

18 5.15 Plaintiff reasonably believed such actions of the Defendant to be unlawful and that
19 requesting religious accommodations is protected conduct.

20 5.16 Plaintiff's complaints and requests for accommodation were a motivating factor in
21 the decision to not allow Plaintiff time off, treat her differently because of her religious belief,
22 grant other employees time off for specific requests but not to Plaintiff because her requests were
23 based on religious reasons, and the constructive discharge.

1 5.17 As a direct and proximate cause of defendant's actions, Plaintiff has been damaged
2 in an amount to be proven at trial.

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4 **FOURTH CAUSE OF ACTION**
5 **WRONGFUL CONSTRUCTIVE DISCHARGE**

6 5.18 Plaintiff re-alleges and incorporates herein the preceding paragraphs of this
7 Complaint.

8 5.19 Washington State has a strong public policy, evidenced in both Washington statutes
9 and common law, against retaliating against employees who in good faith attempted to abide by
10 and adhere to the Governor's order on COVID-19 safety measure.

11 5.20 Plaintiff was constructively discharged in part because of her concerns and refusal
12 to break the Governor's order regarding COVID-19 safety measures.

13 5.21 Defendants made working conditions intolerable for her by failing to accommodate
14 her religious belief.

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16 5.22 A reasonable person in Plaintiff's position would be forced to resign.

17 5.23 Plaintiff resigned because of the conditions and not for any other reason.

18 5.24 As a result of Defendants' violations, Plaintiff has been damaged in an amount to
19 be proven at trial.

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21 **VI. JURY DEMAND**

22 6.1 Plaintiff requests a trial by jury on all issues so triable.

23 **VII. PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff prays judgment in her favor and for relief as follows:
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1 7.1 Economic damages for unpaid and lost wages, including back pay, front pay or
2 reinstatement, lost benefits, and medical expenses all in an amount to be proven at trial;

3 7.2 Damages for actual, consequential, and incidental damages as alleged herein or as
4 proven at trial;

5 7.3 Damages for loss of enjoyment of life, pain and suffering, mental anguish,
6 emotional distress, and humiliation;

7 7.4 Prejudgment and post-judgment interest in an amount to be proven at trial;

8 7.5 Compensation for any tax penalty associated with a recovery;

9 7.6 Reasonable attorneys' fees and costs pursuant to statute and as otherwise allowed
10 by any claim alleged herein; and
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12 7.7 Any other relief this Court shall deem just and equitable.
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14 DATED this 20th day of May, 2021.

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Attorneys for Plaintiff